

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2917

Heard in Calgary, Thursday, 13 November 1997

concerning

Canadian National Railway Company

and

**Canadian Council of Railway Operating Unions
[United Transportation Union]**

DISPUTE:

Appeal the Company's decision to assess 30 demerits to Conductor R.J. McIntyre of Edmonton, Alberta, for violation of CROR Rule 105 and Vegreville Subdivision Footnote 5.2, on February 6, 1995.

JOINT STATEMENT OF ISSUE:

On February 14, 1995, Mr. McIntyre attended an employee statement in connection with circumstances surrounding the derailment of six cars at mile 0.8 Scotford Industrial Lead, during his tour of duty as Yard Conductor on the 0700 Scotford Yard assignment, on February 6, 1995. Mr. McIntyre was subsequently assessed 30 demerits for violation of CROR 105 and Vegreville Subdivision Footnote 5.2.

The Union contends that the discipline assessed to Mr. McIntyre is too severe.

The Company does not agree.

FOR THE COUNCIL: FOR THE COMPANY:

(SGD.) M. G. Eldridge

(SGD.) J. torchia

for: General Chairman for: Assistant Vice-PRESIDENT, Labour Relations

There appeared on behalf of the Company:

D. VanCauwenbergh – Labour Relations Officer, Edmonton

J. Torchia – Manager, Labour Relations, Edmonton

J. Dixon – Assistant Manager, Labour Relations, Edmonton

K. Morris – Labour Relations Officer, Edmonton

S. Blackmore – Labour Relations Officer, Edmonton

And on behalf of the Council:

M. G. Eldridge – Vice-General Chairman, Edmonton

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AWARD OF THE ARBITRATOR

The facts in this case are touched upon in **CROA 2916**. The evidence discloses that by the errors of judgement and negligence of Conductor McIntyre, the movement of which he was in charge proceeded through a misaligned switch into a spur which was occupied by stationary cars, resulting in a collision and the derailment of some six cars, three of which were destroyed, with damage in excess of \$200,000.00. While Conductor McIntyre is a long service employee with a relatively good prior disciplinary record, the facts of the incident disclose a serious departure from the requirements of CROR 105 and Vegreville Subdivision footnote 5.2. His inattention to the speed of his movement, which was plainly in excess of the permissible speed, as well as his failure to observe the state of approaching switches could have resulted in serious injuries to himself and his fellow crew member, Assistant Conductor J.K. Bell. In all of the circumstances the Arbitrator is satisfied that the assessment of thirty demerits was an appropriate measure of discipline, and that it should not be disturbed.

November 25, 1997

(signed) MICHEL G. PICHER

ARBITRATOR